

**IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI**

## DIVISION I

KEITH WENZEL, Director, Department of  
Insurance, State of Missouri,

Plaintiff

V.

Case No. CV 99 323050

GENERAL AMERICAN MUTUAL  
HOLDING COMPANY, a Missouri  
Mutual Holding Company,

Defendant.

**REHABILITATOR'S APPLICATION FOR ORDER FIXING BAR DATE FOR  
CLAIMS, APPROVING ELIGIBILITY RULES AND PROCEDURES AND  
APPROVING THE FORM AND MANNER OF NOTICE OF HEARING OF THIS  
MOTION AND FOR ORDERS CONCERNING CERTAIN RELATED ISSUES**

COMES NOW Keith Wenzel, Director of the Missouri Department of Insurance in his capacity as Rehabilitator of General American Mutual Holding Company, by and through Albert Riederer, special deputy receiver, (“the Rehabilitator”), and applies to this Court pursuant to Mo. Rev. Stat. §§ 375.1155 and 375.1168.4 for an order setting a bar date for the filing of certain claims (excluding claims based solely on membership interests) and approving the form and manner of notice notifying members and other interested parties thereof. In addition, the Rehabilitator applies to this Court for an order fixing an eligibility date, determining eligible policies, fixing a calculation date with respect to distribution from the funds of General

American Mutual Holding Company and determining the general principles and methodology for the allocation of GAMHC's funds to members and persons entitled to the benefits of membership in GAMHC. In support of this application, the Rehabilitator states as follows:

1. Plaintiff is the duly appointed and confirmed Director of the Department of Insurance of the State of Missouri ("the Director"), and on September 17, 1999, was appointed Rehabilitator of General American Mutual Holding Company ("GAMHC") by this Court. By order entered December 1, 1999, Judge Albert Riederer was appointed special deputy receiver.
2. After full notice and a hearing, on November 10, 1999 this Court entered its judgment (the "Plan Judgment") approving a Plan of Reorganization for GAMHC (the "Plan").
3. GAMHC is a mutual holding company organized and operating under the laws of the State of Missouri, Mo. Rev. Stat. §§ 376.1300-376.1322.
4. Prior to the consummation of the Plan, GAMHC owned a 100% stock interest in GenAmerica Corporation ("GAC"), which is a stock holding company organized under Missouri law. GAC was sold to Metropolitan Life Insurance Company ("MetLife"). GAC in turn owned 100% of the stock of General American Life Insurance Company ("GALIC"), a stock life insurance company organized under Missouri law. GAC also owned, directly and indirectly, a controlling interest in the stock of certain other subsidiaries, including Reinsurance Group of America, Inc. ("RGA") and Conning Corporation ("Conning").
5. As a mutual holding company, GAMHC does not have shareholders. Rather, the residual owners of the business who have a similar functional role as shareholders, and whose rights are of the same priority as shareholders in a stock-owned company, are referred to as "members." Members, in general, in this case are the policyholders of GALIC.

6. Moreover, as a holding company only, GAMHC did not have direct debtor-creditor or contractual relationships with third parties. All such relationships were and are conducted by its operating subsidiaries. For this reason, GAMHC does not reflect any debts on its books and records, and the Rehabilitator does not anticipate there being any substantial direct creditors.

7. The Rehabilitator's Reorganization Plan for GAMHC (the "Reorganization Plan") provided for the rehabilitation of GAMHC and the release of GALIC from administrative supervision through (a) the participation of MetLife in the rehabilitation of GAMHC through the sale of all the issued and outstanding shares of common stock of GAC by GAMHC to MetLife, pursuant to a Stock Purchase Agreement (the "Agreement"), (b) the distribution of the proceeds of such sale (i) to certain creditors of GAMHC, (ii) to the extent indemnifiable claims are made, to MetLife on account of certain indemnification rights, and (iii) as to any residual amounts, to the members of GAMHC in accordance with their membership interests, and (c) the reorganization of GAMHC.

8. More specifically, the Reorganization Plan and the Agreement provide in pertinent part as follows:

- (a) In accordance with the Agreement, GAMHC sold 100% of the outstanding common stock of GAC to MetLife, thereby transferring to MetLife all of its interest in its operating direct and indirect subsidiaries and affiliates, including GALIC, RGA and Conning (Reorganization Plan at § 5.1; Agreement at §§ 2.1 and 6.20).
- (b) The purchase price for GAC was \$1.2 billion, subject to an adjustment for certain interest calculations (Agreement at Article II).
- (c) At the closing, GAMHC conveyed to MetLife all of the Rehabilitator's and GAMHC's right, title and interest to the shares of GAC, free and clear of all liens, claims and encumbrances existing as of the closing date,

including, without limitation, claims against or relating to GAMHC, the assets of GAMHC, or the interests of the members in GAMHC or the value thereof (Reorganization Plan at § 5.1).

- (d) MetLife has a right to indemnification from GAMHC under the Agreement (the “Indemnification Obligations”) (Agreement at §§ 8.1 and 10.2).
- (e) The Reorganization Plan provides that Excluded Claims are to be filed in the manner and by the date required by this Court, with the failure to file an Excluded Claim in the manner and by the date required by this Court resulting in that claim being forever barred from being asserted against GAMHC, the GAMHC Liquidating Trust, or MetLife. An “Excluded Claim” under the Reorganization Plan is any claim (i) which is asserted by a person other than MetLife, (ii) for which MetLife has the right to be indemnified under the Agreement, and (iii) which is asserted or assertable against GAMHC or MetLife (Reorganization Plan at Article 6).
- (f) Title to the purchase price proceeds vested in the Rehabilitator pursuant to Mo. Rev. Stat. § 375.1166.1, subject to a perfected, first priority judicial lien or a perfected first priority security interest upon such proceeds in favor of MetLife to secure the Indemnification Obligations (the “MetLife Lien”). The MetLife Lien was created and confirmed by this Court pursuant to paragraph 7 of the Plan Confirmation Judgment. The purchase price proceeds are being held by the Rehabilitator in one or more accounts (together, the “Account”) and administered in accordance with the Reorganization Plan, which contains detailed provisions respecting authorized distributions from the Account to MetLife (with respect to Indemnification Obligations), to the Rehabilitator, and to cover the reasonable out-of-pocket costs and expenses of the rehabilitation proceedings and of the Rehabilitator and GAMHC incurred in the ordinary course of business, and the valid statutory and contractual obligations and taxes of GAMHC, and expenses of resolving, pursuant to the terms of the Reorganization Plan, any disputes regarding permissible distributions from the Account (Reorganization Plan at Article 11)
- (g) Except as otherwise provided, the policyholder obligations of GALIC and any of its insurance company subsidiaries have remained the obligation of GALIC or the applicable insurance company subsidiary.
- (h) The Reorganization Plan provides that the Rehabilitator will formulate a schedule of GAMHC members and membership interests for the purpose of determining the allocation of assets to be distributed to members under the Reorganization Plan. The basis for determining the amount of members’ membership interests will be submitted to this Court for approval. (Reorganization Plan at § 4.2.)

9. The sale to Metlife closed on January 6, 2000, and the Rehabilitator is currently holding the purchase price consideration. The purpose of the instant Application is to commence the implementation of the Reorganization Plan. Specifically, the Rehabilitator seeks an order with respect to each of the following matters:

- (a) in accordance with Section 6.2 of the Plan, setting Wednesday, January 31, 2001 as the deadline for the filing of claims, other than the claims by members of GAMHC solely for their membership interest (the “Bar Date”);
- (b) fixing January 5, 2000 (the day prior to the closing of the sale to MetLife) as the date on which a member must have had an in-force policy in order to be eligible for a membership distribution (the “Eligibility Date”);
- (c) fixing December 31, 1999 as the date as of which membership distributions will be calculated (the “Calculation Date”);
- (d) defining which policies will be treated as eligible for a membership distribution;
- (e) determining the general methodology and principles for the allocation of GAMHC’s funds to members and persons entitled to the benefits of membership in GAMHC; and
- (f) approving the form and manner of notice of this Application and of the Bar Date.

10. Bar Date. The proposed bar date is Wednesday, January 31, 2001. It is requested that this Court immediately establish the Bar Date by order without further notice, as is customary in proceedings of this type involving insurance companies. The Rehabilitator will provide notice in the following manner:

- (a) The Rehabilitator will mail a copy of the notice (in the form attached hereto as Exhibit A), to the following individuals or entities: (i) all members of GAMHC who were members at any time between August 31, 1999 and January 5, 2000, and (ii) all policyholders of GALIC who were policyholders at any time between August 31, 1999 and January 5, 2000. A claim form (in the form attached hereto as Exhibit B) will be sent to any individual or entity which requests the claim form.

- (b) The Rehabilitator will publish a notice (substantially in the form attached hereto as Exhibit C), three separate times, in the Kansas City Star and the St. Louis Post-Dispatch between September, 2000 and January, 2001, one time in the national edition of the Wall Street Journal between September, 2000 and January, 2001, and one time in the national edition of USA Today between September, 2000 and January, 2001.

11. The Bar Date will not, however, be applicable to members, insofar as their claims are solely for their share of GAMHC assets based on their membership interest. The Bar Date will also not be applicable to any claims by MetLife pursuant to the stock purchase agreement between GAMHC and MetLife dated as of August 26, 1999, as amended, including any claims by MetLife that arise pursuant to its right of indemnification from GAMHC under Sections 8.1 and 10.2 thereof. Since the Rehabilitator knows who the members are based on GALIC's books and records, it will not be necessary for them to file any document to preserve their membership interests. With respect to the membership interests, the Rehabilitator proposes a separate mechanism described below for determining the amount to be paid for such interests.

12. Membership Schedule; Allocation of Consideration. With respect to the determination of members' interests, the Rehabilitator proposes to pursue the following course of action: The Rehabilitator, with the assistance of GALIC, is preparing a schedule of membership interests (the "Membership Schedule"). In Part V of the notice (in the form attached as Exhibit A) the Rehabilitator is giving notice to each Member of the basis or methodology for determining the amount of the Members' Membership Interests. In the absence of an objection, or after resolution of any objection, the Rehabilitator will request that the Court approve the methodology by which specific policyholders' shares will be determined. Any distribution will only be made following completion of the Membership Schedule and allocation of consideration and upon further order of the Rehabilitation Court.

13. Calculation of the allocation of the actual amounts to be distributed to each member or person entitled to the benefits of membership (the “Eligible Members”) is an expensive, time-consuming task. It will require thousands of hours of work by actuaries and other professionals. This is because certain of GALIC’s policies are known as “participating policies.” The amount of the membership interest of participating policies is dependent, to some extent, on the relative profitability of various classes of policies to which they belong. Accordingly, the actuaries must assess the relative values of certain kinds of policies. In order to prepare this allocation of amounts to be distributed, however, the Rehabilitator and his consultants must know certain parameters, and it is those parameters that the Rehabilitator requests that the Court establish. If these parameters are not established, there is a risk that the Court will reject the allocation of consideration, and the significant effort that went into preparing it will have to be duplicated.

14. For these reasons, the Rehabilitator seeks a determination with respect to four threshold issues that are prerequisites to the distribution to Eligible Members : (i) to fix the Eligibility Date—that is, the date as of which a member must have had an in-force policy; (ii) to fix the Calculation Date—that is, the date as of which the membership interest will be calculated; (iii) to determine the definition of Eligible Policy—that is, what criteria a policy must satisfy in order to qualify for a membership distribution and (iv) to determine the general methodology and principles for determining the allocation of GAMHC’s funds to members and persons entitled to the benefit of membership in GAMHC. Without a determination of these issues, the Rehabilitator’s actuaries are unable to commence important elements of the detailed and time-intensive work necessary to determine the allocation of payments to Eligible Members.

15. Eligibility Date. The Rehabilitator proposes that the Rehabilitation Court fix the Eligibility Date for purposes of determining the eligibility of a member to receive a distribution from General American Mutual Holding Company as January 5, 2000. On January 6, 2000, GAC and all of its subsidiaries including General American Life Insurance Company were acquired by MetLife and, accordingly, on and after January 6, 2000, it was not possible to become a new member of General American Mutual Holding Company.

16. The Rehabilitator also proposes that holders of policies and contracts of insurance or annuities which have terminated due to death or maturity or otherwise been surrendered or terminated on or prior to January 5, 2000 should not be eligible for a distribution. The articles of incorporation of General American Mutual Holding Company provide that all holders of policies and contracts of insurance or annuities which have not matured or been surrendered and remain in force, which were issued or assumed by General American Life Insurance Company are members of General American Mutual Holding Company only “for so long as the policy or contract of insurance or annuity remains in force.” (Emphasis added). If a policy was terminated or had matured on or prior to January 5, 2000, the policyholder was no longer a member of General American Mutual Holding Company as of the proposed Eligibility Date. For example, if General American Life Insurance Company received notice that an insured covered by a policy died or if the policy was terminated on or prior to January 5, 2000, such a policyholder would not have been eligible under the articles of incorporation of GAMHC. If an insured covered by a policy died after January 5, 2000 or died on or prior to January 5, 2000 where the notice of such death was not received by General American Life Insurance Company until after January 5, 2000 or the policy was terminated after that date, the policyholders would be eligible since the policyholder was a member on January 5, 2000.



17. The Rehabilitator considered whether some other eligibility date might be appropriate and fair. However, the selection of an earlier eligibility date presents a number of legal and practical difficulties, including: (1) making distributions based on former membership status appears inconsistent with the Articles of Incorporation of General American Mutual Holding Company; (2) making distributions to former policyholders has rarely been done in the demutualization of life insurance companies, a similar type of transaction, and then only when required by a specific state law—which there is not in Missouri—which sets forth the exact prior period for eligibility; (3) if an earlier date were desired, it would not be easy to determine a logical basis for picking any particular earlier date; (4) the data necessary for making the calculations as to the allocation of consideration, including membership information and policy values, is readily available using the January 5, 2000 date but is much more difficult to obtain for an earlier date; (5) picking an earlier date to benefit former policyholders would inevitably reduce the allocation of any distribution to members as of January 5, 2000 and is unfair to policyholders who maintained their policies in force through to the time of the sale to MetLife; and (6) making distributions to former members would be more costly and complex to administer for various reasons, including difficulties with respect to locating such persons and the availability of necessary records and data.

18. Calculation Date. The Rehabilitator proposes that December 31, 1999 be fixed as the Calculation Date for purposes of making calculations as to the allocation of consideration.

19. It is very common in similar distributions, such as in life insurance company demutualization transactions, to have the calculation date for determining the allocation of the distribution to policyholders fixed at a convenient date shortly prior to the eligibility date. In fixing a calculation date, it is necessary to pick a date when General American Life Insurance

Company can readily capture all the required data to make the allocation of consideration that the members and persons entitled to the benefits of membership will receive. If the calculation date chosen is December 31, 1999, the financial information necessary for the calculations is readily available because it is a year-end. With respect to policies and contracts issued after December 31, 1999 and on or before January 5, 2000, policyholder balances and other relevant data will be captured and calculated separately. If an earlier calculation date were used, information as to the current policyholder balances and other relevant data would not be available.

20. Eligible Policies – General. The Rehabilitator proposes to use the general principles outlined in the following paragraphs 21 to 26 in determining the eligibility of policyholders for payment of compensation.

21. Eligibility for Compensation. All Eligible Members will receive payment of at least a fixed amount as compensation regardless of the number of Policies owned or value of their Policy. For example, if a person is the owner of two or more Policies that are In Force on the Eligibility Date, the person will receive one fixed share. The following requirements will apply to be an Eligible Member: (a) The person must be the Owner of a Policy and (b) the Policy must be In Force as of the Eligibility Date. The proposed Eligibility Date is January 5, 2000.

In addition, certain Eligible Members will be allocated variable compensation based on actuarial factors (“Variable Compensation”). In order to be eligible for Variable Compensation, the In Force Policy must be Participating. The terms, “Owner,” “Policy,” “In Force” and “Participating” are defined below.

22. Determination of Ownership. General American Life Insurance Company’s records will be used to make a good faith determination of who owns a Policy for the purpose of

receiving compensation. In general, the Owner of an Individual Life or Annuity contract is the person specified in the Policy as the owner or contract holder. In general, the Owner of a Group Life, Health or Annuity Contract is the person or entity specified in the group or master contract as the owner or contract holder (i.e., group certificate holders are generally not considered owners).

The following are special situations: (a) If a Policy has more than one Owner, the Owners together will be treated as a single Owner. (b) An assignee of a Policy is only recognized as an owner if the assignment is absolute, and was recorded prior to the Eligibility Date with General American Life Insurance Company in accordance with the terms of the Policy and General American Life Insurance Company's rules for assignment.

23. Definition of a Policy. Any of the following are considered a "Policy": (a) Any individual or group life insurance policy or contract (including endowment contracts), annuity policies and contracts, or accident or health contracts (including stop-loss agreements) that were issued by General American Life Insurance Company, (b) Policies or contracts originally issued by another company but subsequently assumed by General American Life in an assumption reinsurance transaction, (c) Any Supplemental Contract issued by General American Life pursuant to a settlement option specified in a life or annuity contract that arises on the death of an insured which requires periodic payments; except the following:

- (1) Contracts that make payments on an Interest Only or under the five-year lump sum option basis unless the option was pre-selected by the insured prior to death and the beneficiary has no right to modify the terms of the payments and
- (2) Contracts resulting from the death of an insured under a group contract.

The following are not considered Policies: (a) Funding agreements, (b) Certificates under group policies (except as listed in paragraph 26 entitled "Certain Group Policies and Contracts")

24. Definition of In Force. Policies are considered “In Force” on the Eligibility Date if, based on the records of General American Life Insurance Company, all of the following conditions exist: (a) the date of issue or contract effective date specified in the Policy is on or before the Eligibility Date; (b) the required premium has been received by General American Life Insurance Company on or before the Eligibility Date; (c) the policy has not terminated due to death or maturity or otherwise been surrendered or terminated on or prior to the Eligibility Date. This means that as of the Eligibility Date the insured must be alive, or General American Life Insurance Company must not have received notice of death. In addition, the following Policies will be considered In Force on the Eligibility Date: (a) Policies that have lapsed for nonpayment of premiums and any applicable grace period (or other similar period designated in the Policy) has not expired; (b) Life Insurance Policies that are continued as extended term insurance or reduced paid-up insurance; (c) applications in process that were complete (including the appropriate consideration) on the Eligibility Date where the Policy was issued as applied for; (d) Policies originally issued by General American Life Insurance Company but subsequently transferred or assigned to COVA Financial Services Life Insurance Company, a stock subsidiary of General American Life Insurance Company, as part of a special exchange program.

The following Policies will not be considered In Force: (a) Group Life or Accident and Health insurance Policies that have expired due to lapse or surrender where General American Life Insurance Company only retains a residual liability related to unpaid claims, disabilities or survivorship benefits. (b) Group Policies which have no future premiums due but General American Life Insurance Company has an obligation to pay death benefits with respect to a fixed list of people. (c) Group Policies owned by a corporation, trust or association that has been dissolved, liquidated or otherwise ceases to exist. (d) Group Annuity Policies for which General

American Life Insurance Company has no monies on deposit and no obligations under any annuity certificate under such Policy.

25. Participating Policies. Policies are considered “Participating” if they expressly provide for dividends to be paid or have been treated by the administrative practice of General American Life Insurance Company as having the potential to receive dividends or the right to participate in the divisible surplus of the General American Life Insurance Company. All policies issued by General American Life Insurance Company are considered participating except: (a) immediate annuity Policies; (b) stop loss agreements where the terms of the Policy expressly exclude the right to participate in the divisible surplus of the company (i.e., silent stop loss agreements will be eligible for a variable component) or (c) any policies issued on or after April 24, 1997 (after General American Life Insurance Company converted to a Missouri Mutual Holding Company) that expressly state that they are non-participating and/or expressly exclude the right to participate in the divisible surplus of General American Life Insurance Company.

26. Certain Group Policies and Contracts. The following individuals and entities will be considered to be Owners for the purposes of this process: (a) Each Person (as defined below) who signed a participation agreement to participate in any trust established by General American Life Insurance Company for the purpose of securing group life or group accident and health insurance coverage; (b) Each Person who is issued a certificate of insurance under a group life insurance Policy for the purpose of providing “portable life insurance” to such person. (c) Each Person who is issued a certificate under a group medical insurance policy for the purpose of providing medical coverage pursuant to a group medical conversion. (d) Each Person who is issued a certificate under a group insurance policy or annuity contract issued to an association or to the trustee of a trust if:

(1) the certificate holder has the right to vote on any matter submitted to a vote of the members and has the right to receive dividends; or (2) the certificate holder was required to complete an application and has the right to withdraw funds, annuitize, or receive dividends with respect to such certificate. Note that in the situations listed above, the trustee, broker or other entity listed as the owner of the group policy shall not be an Eligible Member or Owner. The term “Person” means “an individual, partnership, firm, association, corporation, limited stock company, limited liability partnership, trust, government or governmental agency, state or political subdivision of a state, public or private corporation, board, association, estate, trustee or fiduciary, or any other legal entity.” General American Life Insurance Company has established a fund for the benefit of the members of the Intergovernmental Employees Association. The fund will be deemed to be the Eligible Member with respect to all policies issued to the Intergovernmental Employees Association. The individual members of the Intergovernmental Employees Association will not be Eligible Members or Owners.

27. General Methodology and Principles for Determining Allocation of Consideration. The Rehabilitator has determined and proposes to this Court that the most equitable way to distribute the fund is to use the same general methodology and principles that are usually used for the demutualization of mutual life insurance companies except that no consideration in the form of stock can be distributed. The only consideration to be distributed will be cash (or policy credits or policy enhancements, when necessary because of the tax-sheltered nature of the insurance policy or annuity contract).

28. The Rehabilitator proposes that the formula for allocating consideration to Eligible Members will consist of (i) a minimum allocation (a fixed component) which would be

distributed, regardless of the number of policies owned by each Eligible Member in the same capacity, and (ii) a variable component.

29. The aggregate amount of the fixed component paid to all Eligible Members will be equal to 16% of the total amount available at the time the fixed component is paid (subject to adjustment to a higher or lower fixed dollar amount for rounding and administrative convenience). The remaining amount of funds will be allocated on a variable basis. Only participating policies will be eligible for allocations of the variable component of consideration. The general methodology and principles for determining the allocation of variable consideration is described in greater detail in Part V of the notice (in the form attached as Exhibit A).

30. The use of a fixed component and variable component are consistent with the procedures employed in all mutual life insurance company demutualizations in the United States. The actuarial principles which the Rehabilitator is recommending in this Application are recommended by its actuarial advisors, PricewaterhouseCoopers.

31. For the foregoing reasons, the Rehabilitator respectfully requests that the Court fix January 31, 2001 as the Bar Date and fix a hearing date for the other matters described in this Application and authorize a copy of the notice in the form of Exhibit A to be mailed in the manner requested to the persons specified herein.

Respectfully submitted,

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Albert A. Riederer  
Special Deputy Receiver  
c/o Firststar Tower – Suite 1400  
1101 Walnut  
Kansas City, MO 64106-2122

(816) 842-8889  
Facsimile: (816) 842-3088

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Eric A. Martin, BE No. 48783  
Diane Garber, MBE No. 26531  
Missouri Department of Insurance  
Room 630, Truman Building  
Jefferson City, MO 65101  
(573) 751-2619  
Facsimile: (573) 526-5492



Of Counsel:

Richard G. Clemens  
James R. Stinson  
Sidley & Austin  
Bank One Plaza  
10 South Dearborn Street  
Chicago, IL 60603  
(312) 853-7000  
Facsimile: (312) 853-7036

Thomas E. Patterson  
Sidley & Austin  
555 West Fifth Street  
40th Floor  
Los Angeles, CA 90013  
(213) 896-6037  
Facsimile: (213) 896-6600

ATTORNEYS FOR THE REHABILITATOR